ORIGINAL

ORDINANCE NO. 2214

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, AMENDING SECTION 14.16.005 OF THE REDMOND MUNICIPAL CODE IN ORDER TO REFLECT RECODIFICATION OF STATE STATUTES IN LAWS OF 1999, CHAPTER 249, SECTION 1601 GOVERNING THE OPERATION OF VESSELS AND PERSONAL WATERCRAFT FORMERLY CODIFIED IN RCW CHAPTER 88.12; ADOPTING BY REFERENCE RCW 79A.60.010, DEFINITIONS, RCW 79A.60.020, VIOLATIONS OF CHAPTER PUNISHABLE MISDEMEANOR, RCW 79A.60.170, WATER SKIING SAFETY REQUIREMENTS. AND RCW 79A.60.200(1)(2), DUTY OF OPERATOR INVOLVED IN COLLISION, ACCIDENT, OR OTHER CASUALTY -PENALTIES: CONTAINING Α **SEVERABILITY** CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in 1997 Redmond Municipal Code Chapter 14.16 was amended to adopt certain state statutes from Revised Code of Washington, Chapter 88.12, relating to the operation of vessels and personal watercraft, and

WHEREAS, Revised Code of Washington, Chapter 88.12 was recodified as Revised Code of Washington, Chapter 79A.60 by Laws of 1999, chapter 249, section 1601, and

WHEREAS, the Redmond City Council desires to correct the reference to the state statutes, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Section 14.16.005 amended. Redmond Municipal Code section 14.16.005 is hereby amended to read as follows:

14.16.005 Operation of vessels. The following statutes of the state of Washington, including any future amendments, additions thereto and repeals thereof, are adopted by reference and incorporated herein by this reference as if set forth in full:

RCW 79A.60.010	Definitions.
RCW 79A.60.020	Violations of chapter punishable as misdemeanor – Circumstances – Violations designated as civil infractions.
RCW 88.12.020 RCW 79A.60.030	Operation of a vessel in a negligent manner – Penalty.
RCW 88.12.020 RCW 79A.60.040	Operation of a vessel in a reckless manner – Operation of a vessel under the influence of intoxicating liquor – Penalty.
RCW 88.12.020 RCW 79A.60.080	Failure to stop for law enforcement officer
RCW 88.12.020 RCW 79A.60.110	Equipment standards - Rules - Penalty.
RCW 88.12.020 RCW 79A.60.120	Tampering with vessel lights or signals – Exhibiting false lights or signals – Penalty.
RCW-88.12.020 RCW 79A.60.130	Muffler or underwater exhaust system required – Exemptions – Enforcement – Penalty.
RCW-88.12.020 RCW 79A.60.140	Personal floatation devices – Inspection and approval – Rules.
RCW-88.12.020 RCW 79A.60.150	Failure of vessel to contain required equipment – Liability of operator or owner – Penalty.
RCW 88.12.020 RCW 79A.60.160	Personal floatation devices required – Penalty.
RCW 79A,60.170	Water skiing safety - Requirements.
RCW-88.12.020 RCW 79A.60.180	Loading or powering vessel beyond safe operating ability – Penalties.
RCW 88.12.020 RCW 79A.60.190	Operation of personal watercraft – Prohibited activities – Penalties.
RCW 79A.60.200(1)(2)	Duty of operator involved in collision, accident, or other casualty – Immunity from liability of persons rendering assistance - Penalties.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by a court of competent

jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other sections, sentence, clause or phrase of this ordinance.

Section 3. Procedure. Incident to the adoption by reference of certain state laws contained in the Revised Code of Washington, one copy of the text of the statute adopted by reference in this ordinance is attached hereto as Exhibit A and shall be filed with the City Clerk as required by RCW 35A.12.140 for use and examination by the public.

Section 4. Effective Date. This ordinance, being an exercise of a power specifically delegated to the city legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of the ordinance or a summary thereof consisting of the title.

APPROVED:

MAYOR, RÖSEMARIE M. İVES

ATTEST/AUTHENTICATED:

CITY CLERK, BONNIE MATTSON

APPROVED AS TO FORM: OFFICE OF THE CITY ATTORNEY:

4.

FILED WITH THE CITY CLERK:

PASSED BY THE CITY COUNCIL:

PUBLISHED:

EFFECTIVE DATE:

ORDINANCE NO. __2214

May 11, 2004

May 18, 2004

May 24, 2004

May 29, 2004

June 25, 2004*

*Clerk's Note - The summary was not published by The Seattle Times on the requested date. It was published on June 25, 2004 after the error was discovered.

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act, or the application of the provision to other persons or legal entities or circumstances, shall not be affected. [1977 ex.s. c 161 § 12. Formerly RCW 79.72.900.]		79A.60.480	Vessels carrying passengers for hire on whitewater rivers—Whitewater river outfitter's license— Application—Fees—Insurance—Penalties—State immune from civil actions arising from licensure.
ex.s. c 101 9	12. Politicity Rest 15.12.500.	79A.60.485	Vessels carrying passengers for hire on whitewater rivers—Rules to implement RCW 79A.60.480—
	Chapter 79A.60		Fees.
REGULA'	TION OF RECREATIONAL VESSELS	79 A.60.490	Vessels carrying passengers for hire on whitewater rivers—License suspension for certain convictions. Designation as whitewater river—Rules—Schedule of
		79A.60.495	fines.
Sections		79A.60.498	Uniform regulation of business and professions act.
79A.60.010	Definitions.	79A.60.500	Uniform waterway marking system.
79A.60.020	Violations of chapter punishable as misdemeanor— Circumstances—Violations designated as civil infractions.	79A.60.510	Findings—Sewage disposal initiative established— Boater environmental education—Waterway access
79A,60.030	Operation of vessel in a negligent manner—Penalty.		facilities. Identification and designation of polluted and environ-
79A.60.040	Operation of vessel in a reckless manner—Operation of a vessel under the influence of intoxicating	79A.60.520	mentally sensitive areas. Designation of marinas, boat launches, or boater desti-
	liquor-Penalty.	79A.60.530	nations for installation of sewage pumpout or
79A.60.050	Homicide by watercraft-Penalty.		dump units.
79A,60.060	Assault by watercraft—Penalty.	79A.60.540	Contracts for financial assistance—Ownership of sew-
79A.60.070	Conviction under RCW 79A.60.050 or 79A.60.060—	19A,00,340	age pumpout or dump unit—Ongoing costs.
	Community supervision or community place-	79A.60.550	Development by department of ecology of design,
	ment—Conditions. Failure to stop for law enforcement officer.	1,574.00.550	installation, and operation of sewage pumpout and
79A.60.080	Eluding a law enforcement vessel.		dumo unitsRules.
79A.60.090	Enforcement—Chapter to supplement federal law.	79A.60.560	Boater environmental education program.
79A.60.100 79A.60.110	Equipment standards—Rules—Penalty.	79A.60.570	Grants for environmental education or boat waste
79A.60.110	Tampering with vessel lights or signals—Exhibiting		management planning.
79A.00.120	false lights or signals—Penalty.	79A.60.580	Review of programs by commission.
79A.60.130	Muffler or underwater exhaust system required—	79A.60.590	Allocation of funds.
,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	Exemptions—Enforcement—Penalty.	79A.60.595	Commission to adopt rules.
79A.60.140	Personal flotation devices—Inspection and approval—	79A.60.600 79A.60.610	Liquid petroleum gas leak warning devices—Findings. Recreational boating fire prevention education pro-
79A.60.150	Failure of vessel to contain required equipment— Liability of operator or owner—Penalty.	79A.60.620	gram. Small spill prevention education program.
79A.60.160	Personal flotation devices required—Penalty.		and we see that the Tables the contact clearly
79A.60.170	Water skiing safety—Requirements. Loading or powering vessel beyond safe operating	79A.6	0.010 Definitions. Unless the context clearly
79A.60.180	ability—Penalties.	requires of	therwise, the definitions in this section apply
79A.60.190	Operation of personal watercraft—Prohibited activi-	throughout	this chapter.
132.00.170	ties—Penalties.	(i) "Bo	pat wastes" includes, but is not limited to, sewage,
79A,60.200	Duty of operator involved in collision, accident, or	garbage M	garine debris, plastics, contaminated bilge water,
	other casualty—Immunity from hability of persons	cleaning so	olvents, paint scrapings, or discarded petroleum
	rendering assistance—Penalties.	manduste as	ssociated with the use of vessels.
79A.60.210	Casualty and accident reports—Confidentiality—Use	מיי נאי	oater" means any person on a vessel on waters of
	as evidence.	(Z) B	Oater means any person on a recover or manner
79A.60.220	Boating accident reports by local government agen- cies—Investigation—Report of coroner.	the state of	f Washington. Carrying passengers for hire" means carrying
79A.60.230	Vessels adrift—Owner to be notified.	(3) "C	arrying passengers for into mount out of
79A.60.240	Notice—Contents—Service.	passengers	s in a vessel on waters of the state for valuable
79A.60.250	Posting of notice.	considerat	ion, whether given directly or indirectly or re-
. 79A.60.260	Compensation—Liability on failure to give notice.	caired by t	the owner, agent, operator, or other person having
79A.60.270	Disputed claims—Trial—Bond.	an interest	in the vessel. This shall not include tips where
79A.60.280	Liability for excessive or negligent use.	evnences f	for food transportation, or incidentals are shaled
79A.60.290	Unclaimed vessel—Procedure.	by particip	ants on an even basis. Anyone receiving compen-
79A.60.300	Vessels secured pursuant to chapter 79A.65 RCW.	by particip	skills or money for amortization of equipment and
79A.60.400	Vessels carrying passengers for hire on whitewater rivers—Purpose.	carrying r	passengers shall be considered to be carrying
79A.60.410	Vessels carrying passengers for hire on whitewater rivers—Whitewater river outfitter's license re-	passengers for hire on waters of the state. (4) "Commission" means the state parks and recreation	
79A.60.420	quired. Vessels carrying passengers for hire on whitewater rivers—Conduct constituting misdemeanor.	commissio	on. Darkness" means that period between sunset and
79A.60.430	Vessels carrying passengers for hire on whitewater	anneise.	
79A.60.440	Vessels carrying passengers for hire on whitewater rivers—Operation of vessel—Exemptions.	hady of v	Environmentally sensitive area" means a restricted water where discharge of untreated sewage from
79A.60.450	Vessels carrying passengers for hire on whitewater rivers—Use of alcohol prohibited—Vessel to be	boats is e	specially detrimental because of filmled flushing,
79A,60.460	accompanied by vessel with licensed outfitter. Vessels carrying passengers for hire on whitewater rivers—Rights of way.	ming are	sources or other characteristics.
79A.60.470	Vessels carrying passengers for hire on whitewater rivers—Designation of whitewater river sections.	(7) "	Guide" means any individual, including but not o subcontractors and independent contractors,
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engaged for compensation or other consideration by a whitewater river outfitter for the purpose of operating vessels. A person licensed under *RCW 77.32.211 or 75.28.780 and acting as a fishing guide is not considered a guide for the purposes of this chapter.

(8) "Marina" means a facility providing boat moorage space, fuel, or commercial services. Commercial services include but are not limited to overnight or live-aboard

boating accommodations.

(9) "Motor driven boats and vessels" means all boats and vessels which are self propelled.

(10) "Muffler" or "muffler system" means a sound suppression device or system, including an underwater exhaust system, designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine

(11) "Operate" means to steer, direct, or otherwise have

and that prevents excessive or unusual noise. physical control of a vessel that is underway.

- (12) "Operator" means an individual who steers, directs, or otherwise has physical control of a vessel that is underway or exercises actual authority to control the person at the helm.
- (13) "Observer" means the individual riding in a vessel who is responsible for observing a water skier at all times.
- (14) "Owner" means a person who has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.

(15) "Person" means any individual, sole proprietorship, partnership, corporation, nonprofit corporation or organization, limited liability company, firm, association, or other legal entity located within or outside this state.

(16) "Personal flotation device" means a buoyancy device, life preserver, buoyant vest, ring buoy, or buoy cushion that is designed to float a person in the water and

that is approved by the commission.

(17) "Personal watercraft" means a vessel of less than sixteen feet that uses a motor powering a water jet pump, as its primary source of motive power and that is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

(18) "Polluted area" means a body of water used by boaters that is contaminated by boat wastes at unacceptable levels, based on applicable water quality and shellfish

(19) "Public entities" means all elected or appointed bodies, including tribal governments, responsible for collecting and spending public funds.

(20) "Reckless" or "recklessly" means acting carelessly and heedlessly in a willful and wanton disregard of the

rights, safety, or property of another.

(21) "Sewage pumpout or dump unit" means:

- (a) A receiving chamber or tank designed to receive vessel sewage from a "porta-potty" or a portable container;
- (b) A stationary or portable mechanical device on land, a dock, pier, float, barge, vessel, or other location convenient to boaters, designed to remove sewage waste from holding tanks on vessels.
- or made fast to the shore, or aground.

(22) "Underway" means that a vessel is not at anchor.

(23) "Vessel" includes every description of watercraft on the water, other than a seaplane, used or capable of being used as a means of transportation on the water. However, it does not include inner tubes, air mattresses, sailboards, and small rafts or flotation devices of toys customarily used by swimmers.

(24) "Water skiing" means the physical act of being towed behind a vessel on, but not limited to, any skis, aquaplane, kneeboard, tube, or any other similar device.

(25) "Waters of the state" means any waters within the

territorial limits of Washington state.

(26) "Whitewater river outfitter" means any person who is advertising to carry or carries passengers for hire on any whitewater river of the state, but does not include any person whose only service on a given trip is providing instruction in canoeing or kayaking skills.

(27) "Whitewater rivers of the state" means those rivers and streams, or parts thereof, within the boundaries of the state as listed in RCW 79A.60.470 or as designated by the commission under RCW 79A.60.495. [2000 c 11 § 92; 1998 c 219 § 5; 1997 c 391 § 1; 1993 c 244 § 5; 1933 c 72 § 1; RRS § 9851-1. Formerly RCW 88.12.010.]

*Reviser's note: RCW 77.32.211 and 75.28.780 were recodified as RCW 77.65.480 and 77.65.440, respectively, pursuant to 2000 c 107 § 31.

Intent-1993 c 244: "It is the intent of the legislature that the boating safety laws administered by the state parks and recreation commission provide Washington's citizens with clear and reasonable boating safety regulations and penalties. Therefore, the legislature intends to recodify, clarify, and partially decriminalize the statewide boating safety laws in order to help the boating community understand and comply with these laws.

It is also the intent of the legislature to increase boat registration fees in order to provide additional funds to local governments for boating safety enforcement and education programs. The funds are to be used for enforcement, education, training, and equipment, including vessel noise measurement equipment. The legislature encourages programs that provide boating safety education in the primary and secondary school system for boat users and potential future boat users. The legislature also encourages boating safety programs that use volunteer and private sector efforts to enhance boating safety and education." [1993 c 244 § 1.]

79A.60.020 Violations of chapter punishable as misdemeanor-Circumstances-Violations designated as civil infractions. (1) A violation of this chapter designated as an infraction is a misdemeanor, punishable under RCW 9.92.030, if the current violation is the person's third violation of the same provision of this chapter during the past three hundred sixty-five days.

(2) A violation designated in this chapter as a civil infraction shall constitute a civil infraction pursuant to chapter 7.84 RCW. [1999 c 249 § 1501; 1993 c 244 § 6.

Formerly RCW 88.12.015.]

Severability-1999 c 249: See note following RCW 79A.05.010. Intent-1993 c 244: See note following RCW 79A.60.010.

79A.60.030 Operation of vessel in a negligent manner-Penalty. A person shall not operate a vessel in a negligent manner. For the purposes of this section, to "operate in a negligent manner" means operating a vessel in disregard of careful and prudent operation, or in disregard of careful and prudent rates of speed that are no greater than is réasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of traffic, size of the lake or body of water, freedom from obstruction to view ahead, effects of vessel wake, and so as not to unduly or unreasonably endanger life, limb, property or other rights of any person entitled to the use of such waters. Except as provided in RCW 79A.60.020, a violation of this section is an infraction under chapter 7.84 RCW. [2000 c 11 § 93; 1993 c 244 § 7; 1933 c 72 § 2; RRS § 9851-2. Formerly RCW 88.12.020.]

Intent-1993 c 244: See note following RCW 79A.60.010.

79A.60.040 Operation of vessel in a reckless manner—Operation of a vessel under the influence of intoxicating liquor—Penalty. (1) It shall be unlawful for any person to operate a vessel in a reckless manner.

(2) It shall be a violation for a person to operate a vessel while under the influence of intoxicating liquor or any drug. A person is considered to be under the influence of intoxicating liquor or any drug if:

(a) The person has 0.08 grams or more of alcohol per two hundred ten liters of breath, as shown by analysis of the person's breath made under RCW 46.61.506; or

(b) The person has 0.08 percent or more by weight of alcohol in the person's blood, as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) The person is under the influence of or affected by intoxicating liquor or any drug; or

(d) The person is under the combined influence of or

affected by intoxicating liquor and any drug.

The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section. A person cited under this subsection may upon request be given a breath test for breath alcohol or may request to have a blood sample taken for blood alcohol analysis. An arresting officer shall administer field sobriety tests when circumstances permit.

(3) A violation of this section is a misdemeanor, punishable as provided under RCW 9.92.030. In addition, the court may order the defendant to pay restitution for any damages or injuries resulting from the offense. [1998 c 213 § 7; 1993 c 244 § 8. Prior: 1990 c 231 § 3; 1990 c 31 § 1; 1987 c 373 § 6; 1986 c 153 § 6; 1985 c 267 § 2. Formerly RCW 88.12.025, 88.12.100, and 88.02.095.]

Effective date—1998 c 213: See note following RCW 46.20.308. Intent—1993 c 244: See note following RCW 79A.60.010.

Effective date—Severability—1990 c 231: See notes following RCW 79A.60.170.

Legislative finding, purpose—Severability—1987 c 373: See notes following RCW 46.61.502.

79A.60.050 Homicide by watercraft—Penalty. (1) When the death of any person ensues within three years as a proximate result of injury proximately caused by the operating of any vessel by any person, the operator is guilty of homicide by watercraft if he or she was operating the vessel:

- (a) While under the influence of intoxicating liquor or any drug, as defined by RCW 79A.60.040;
 - (b) In a reckless manner; or
 - (c) With disregard for the safety of others.
- (2) When the death is caused by a skier towed by a vessel, the operator of the vessel is not guilty of homicide by watercraft.

(3) A violation of this section is punishable as a class A felony according to chapter 9A.20 RCW. [2000 c 11 § 94; 1998 c 219 § 1. Formerly RCW §8.12.029.]

79A.60.060 Assault by watercraft—Penalty. (1) "Serious bodily injury" means bodily injury which involves a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the function of any part or organ of the body.

(2) A person is guilty of assault by watercraft if he or she operates any vessel:

(a) In a reckless manner, and this conduct is the proximate cause of serious bodily injury to another; or

(b) While under the influence of intoxicating liquor or any drug, as defined by RCW 79A.60.040, and this conduct is the proximate cause of serious bodily injury to another.

(3) When the injury is caused by a skier towed by a vessel, the operator of the vessel is not guilty of assault by watercraft.

(4) A violation of this section is punishable as a class B felony according to chapter 9A.20 RCW. [2000 c 11 § 95; 1998 c 219 § 2. Formerly RCW 88.12.032.]

79A.60.070 Conviction under RCW 79A.60.050 or 79A.60.060—Community supervision or community placement-Conditions. A person convicted under RCW 79A.60.050 or 79A.60.060 shall, as a condition of community custody imposed under *RCW 9.94A.545 or community placement imposed under *RCW 9.94A.700, complete a diagnostic evaluation by an alcohol or drug dependency agency approved by the department of social and health services or a qualified probation department, defined under RCW 46.61.516, that has been approved by the department of social and health services. If the person is found to have an alcohol or drug problem that requires treatment, the person shall complete treatment in a program approved by the department of social and health services under chapter 70.96A RCW. If the person is found not to have an alcohol or drug problem that requires treatment, he or she shall complete a course in an information school approved by the department of social and health services under chapter 70.96A RCW. The convicted person shall pay all costs for any evaluation, education, or treatment required by this section, unless the person is eligible for an existing program offered or approved by the department of social and health services. Nothing in chapter 219, Laws of 1998 requires the addition of new treatment or assessment facilities nor affects the department of social and health services use of existing programs and facilities authorized by law. [2000 c 11 § 96; 1998 c 219 § 3. Formerly RCW 88.12.033.]

*Reviser's note: These RCW references have been corrected to reflect the reorganization of chapter 9.94A RCW by 2001 c 10 § 6.

79A.60.080 Failure to stop for law enforcement officer. Any operator of a vessel who willfully fails to stop when requested or signaled to do so by a person reasonably identifiable as a law enforcement officer is guilty of a gross misdemeanor. [1990 c 235 § 1. Formerly RCW 88.12.035, 88.12.110, and 88.08.070.]

79A.60.090 Eluding a law enforcement vessel. Any operator of a vessel who willfully fails or refuses to immediately bring the vessel to a stop and who operates the vessel in a manner indicating a wanton or willful disregard for the lives or property of others while attempting to clude a pursuing law enforcement vessel, after being given a visual or audible signal to bring the vessel to a stop, shall be guilty of a class C felony punishable under chapter 9A.20 RCW. The signal given by the law enforcement officer may be by hand, voice, emergency light, or siren. The officer giving such a signal shall be in uniform and his or her vessel shall be appropriately marked showing it to be an official law enforcement vessel. [1990 c 235 § 2. Formerly RCW 88.12.045, 88.12.120, and 88.08.080.]

79A.60.100 Enforcement—Chapter to supplement federal law. (1) Every law enforcement officer of this state and its political subdivisions has the authority to enforce this chapter. Law enforcement officers may enforce recreational boating rules adopted by the commission. Such law enforcement officers include, but are not limited to, county sheriffs, officers of other local law enforcement entities, fish and wildlife officers, through the director, the state patrol, and state park rangers. In the exercise of this responsibility, all such officers may stop and board any vessel and direct it to a suitable pier or anchorage to enforce this chapter.

(2) This chapter shall be construed to supplement federal laws and regulations. To the extent this chapter is inconsistent with federal laws and regulations, the federal laws and regulations shall control. [2001 c 253 § 60; 1994 c 264 § 80; 1993 c 244 § 9; 1988 c 36 § 73; 1986 c 217 § 10. Formerly RCW 88.12.055, 88.12.330, and 91.14.100.]

Intent-1993 c 244: See note following RCW 79A.60.010.

79A.60.110 Equipment standards—Rules—Penalty. In addition to the equipment standards prescribed under this chapter, the commission shall adopt rules specifying equipment standards for vessels. Except where the violation is classified as a misdemeanor under this chapter, violation of any equipment standard adopted by the commission is an infraction under chapter 7.84 RCW. [1993 c 244 § 10. Formerly RCW 88.12.065.]

Intent-1993 c 244: See note following RCW 79A.60.010.

79A.60.120 Tampering with vessel lights or signals—Exhibiting false lights or signals—Penalty. An operator or owner who endangers a vessel, or the persons on board the vessel, by showing, masking, extinguishing, altering, or removing any light or signal or by exhibiting any false light or signal, is guilty of a misdemeanor, punishable as provided in RCW 9.92.030. [1993 c 244 § 11. Formerly RCW 88.12.075.]

Intent-1993 c 244: See note following RCW 79A.60.010.

79A.60.130 Muffler or underwater exhaust system required—Exemptions—Enforcement—Penalty. (1) All motor-propelled vessels shall be equipped and maintained with an effective muffler that is in good working order and in constant use. For the purpose of this section, an effective muffler or underwater exhaust system does not produce sound levels in excess of ninety decibels when subjected to

a stationary sound level test that shall be prescribed by rules adopted by the commission, as of July 25, 1993, and for engines manufactured on or after January 1, 1994, a noise level of eighty-eight decibels when subjected to a stationary sound level test that shall be prescribed by rules adopted by the commission.

- (2) A vessel that does not meet the requirements of subsection (1) of this section shall not be operated on the waters of this state.
- (3) No person may operate a vessel on waters of the state in such a manner as to exceed a noise level of seventy-five decibels measured from any point on the shoreline of the body of water on which the vessel is being operated that shall be specified by rules adopted by the commission, as of July 25, 1993. Such measurement shall not preclude a stationary sound level test that shall be prescribed by rules adopted by the commission.
- (4) This section does not apply to: (a) A vessel tuning up, testing for, or participating in official trials for speed records or a sanctioned race conducted pursuant to a permit issued by an appropriate governmental agency; or (b) a vessel being operated by a vessel or marine engine manufacturer for the purpose of testing or development. Nothing in this subsection prevents local governments from adopting ordinances to control the frequency, duration, and location of vessel testing, tune-up, and racing.
- (5) Any officer authorized to enforce this section who has reason to believe that a vessel is not in compliance with the noise levels established in this section may direct the operator of the vessel to submit the vessel to an on-site test to measure noise level, with the officer on board if the officer chooses, and the operator shall comply with such request. If the vessel exceeds the decibel levels established in this section, the officer may direct the operator to take immediate and reasonable measures to correct the violation.

(6) Any officer who conducts vessel sound level tests as provided in this section shall be qualified in vessel noise testing. Qualifications shall include but may not be limited to the ability to select the appropriate measurement site and the calibration and use of noise testing equipment.

(7) A person shall not remove, alter, or otherwise modify in any way a muffler or muffler system in a manner that will prevent it from being operated in accordance with this chapter.

(8) A person shall not manufacture, sell, or offer for sale any vessel that is not equipped with a muffler or muffler system that does not comply with this chapter. This subsection shall not apply to power vessels designed, manufactured, and sold for the sole purpose of competing in racing events and for no other purpose. Any such exemption or exception shall be documented in any and every sale agreement and shall be formally acknowledged by signature on the part of both the buyer and the seller. Copies of the agreement shall be maintained by both parties. A copy shall be kept on board whenever the vessel is operated.

(9) Except as provided in RCW 79A.60.020, a violation of this section is an infraction under chapter 7.84 RCW.

(10) Vessels that are equipped with an engine modified to increase performance beyond the engine manufacturer's stock configuration shall have an exhaust system that complies with the standards in this section after January 1, 1994. Until that date, operators or owners, or both, of such

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vessels with engines that are out of compliance shall be issued a warning and be given educational materials about types of muffling systems available to muffle noise from such high performance engines.

(11) Nothing in this section preempts a local government from exercising any power that it possesses under the laws or Constitution of the state of Washington to adopt more stringent regulations. [2000 c 11 § 97; 1993 c 244 § 39. Formerly RCW 88.12.085.]

Intent-1993 c 244: See note following RCW 79A.60.010.

79A.60.140 Personal flotation devices-Inspection and approval-Rules. (1) The commission shall adopt rules providing for its inspection and approval of the personal flotation devices that may be used to satisfy the requirements of this chapter and governing the manner in which such devices shall be used. The commission shall prescribe the different types of devices that are appropriate for the different uses, such as water skiing or operation of a personal watercraft. In adopting its rules the commission shall consider the United States coast guard rules or regulations. The commission may approve devices inspected and approved by the coast guard without conducting any inspection of the devices itself.

(2) In situations where personal flotation devices are required under provisions of this chapter, the devices shall be in good and serviceable condition and of appropriate size. If they are not, then they shall not be considered as personal flotation devices under such provisions. [1993 c 244 § 12. Formerly RCW 88.12.095.1

Intent-1993 c 244: See note following RCW 79A.60.010.

79A.60.150 Failure of vessel to contain required equipment-Liability of operator or owner-Penalty. If an infraction is issued under this chapter because a vessel does not contain the required equipment and if the operator is not the owner of the vessel, but is operating the vessel with the express or implied permission of the owner, then either or both operator or owner may be cited for the infraction. [1993 c 244 § 13. Formerly RCW 88.12.105.]

Intent-1993 c 244: See note following RCW 79A.60.010.

79A.60.160 Personal flotation devices required-Penalty. (1) No person may operate or permit the operation of a vessel on the waters of the state without a personal flotation device on board for each person on the vessel. Each personal flotation device shall be in serviceable condition, of an appropriate size, and readily accessible.

(2) Except as provided in RCW 79A.60.020, a violation of subsection (1) of this section is an infraction under chapter 7.84 RCW if the vessel is not carrying passengers

for hire.

(3) A violation of subsection (1) of this section is a misdemeanor punishable under RCW 9.92.030, if the vessel

is carrying passengers for hire.

(4) No person shall operate a vessel under nineteen feet in length on the waters of this state with a child twelve years old and under, unless the child is wearing a personal flotation device that meets or exceeds the United States coast guard approval standards of the appropriate size, while the vessel is underway. For the purposes of this section, a

personal flotation device is not considered readily accessible for children twelve years old and under unless the device is worn by the child while the vessel is underway. The personal flotation device must be worn at all times by a child twelve years old and under whenever the vessel is underway and the child is on an open deck or open cockpit of the vessel. The following circumstances are excepted:

(a) While a child is below deck or in the cabin of a boat

with an enclosed cabin;

- (b) While a child is on a United States coast guard inspected passenger-carrying vessel operating on the navigable waters of the United States; or
- (c) While on board a vessel at a time and place where no person would reasonably expect a danger of drowning to occur.
- (5) Except as provided in RCW 79A.60.020, a violation of subsection (4) of this section is an infraction under chapter 7.84 RCW. Enforcement of subsection (4) of this section by law enforcement officers may be accomplished as a primary action, and need not be accompanied by the suspected violation of some other offense. [2000 c 11 § 98; 1999 c 310 § 1; 1993 c 244 § 14; 1933 c 72 § 5; RRS § 9851-5. Formerly RCW 88.12.115 and 88.12.050.1

Intent-1993 c 244: See note following RCW 79A.60.010.

79A.60.170 Water skiing safety—Requirements. (1) The purpose of this section is to promote safety in water skiing on the waters of Washington state, provide a means of ensuring safe water skiing and promote the enjoyment of water skiing.

- (2) No vessel operator may tow or attempt to tow a water skier on any waters of Washington state unless such craft shall be occupied by at least an operator and an observer. The observer shall continuously observe the person or persons being towed and shall display a flag immediately after the towed person or persons fall into the water, and during the time preparatory to skiing while the person or persons are still in the water. Such flag shall be a bright red or brilliant orange color, measuring at least twelve inches square, mounted on a pole not less than twenty-four inches long and displayed as to be visible from every direction. This subsection does not apply to a personal watercraft, the design of which makes no provision for carrying an operator or any other person on board, and that is actually operated by the person or persons being towed. Every remote-operated personal watercraft shall have a flag attached which meets the requirements of this subsection. Except as provided under RCW 79A.60.020, a violation of this subsection is an infraction under chapter 7.84 RCW.
- (3) The observer and the operator shall not be the same person. The observer shall be an individual who meets the minimum qualifications for an observer established by rules of the commission. Except as provided under RCW 79A.60.020, a violation of this subsection is an infraction under chapter 7.84 RCW.
- (4) No person shall engage or attempt to engage in water skiing without wearing a personal flotation device. Except as provided under RCW 79A.60.020, a violation of this subsection is an infraction under chapter 7.84 RCW.
- (5) No person shall engage or attempt to engage in water skiing, or operate any vessel to tow a water skier, on

the waters of Washington state during the period from one hour after sunset until one hour prior to sunrise. A violation of this subsection is a misdemeanor, punishable as provided under RCW 9.92.030.

- (6) No person engaged in water skiing either as operator, observer, or skier, shall conduct himself or herself in a reckless manner that willfully or wantonly endangers, or is likely to endanger, any person or property. A violation of this subsection is a misdemeanor as provided under RCW 9.92.030.
- (7) The requirements of subsections (2), (3), (4), and (5) of this section shall not apply to persons engaged in tournaments, competitions, or exhibitions that have been authorized or otherwise permitted by the appropriate agency having jurisdiction and authority to authorize such events. [2000 c 11 § 99; 1993 c 244 § 15; 1990 c 231 § 1; 1989 c 241 § 1. Formerly RCW 88.12.125, 88.12.080, and 88.12.070.]

Intent-1993 c 244: See note following RCW 79A.60.010.

Effective date—1990 c 231: "This act shall take effect July 1, 1990." [1990 c 231 § 4.]

Severability—1990 c 231: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 231 § 5.]

79A.60.180 Loading or powering vessel beyond safe operating ability—Penalties. (1) A person shall not load or permit to be loaded a vessel with passengers or cargo beyond its safe carrying ability or carry passengers or cargo in an unsafe manner taking into consideration weather and other existing operating conditions.

(2) A person shall not operate or permit to be operated a vessel equipped with a motor or other propulsion machinery of a power beyond the vessel's ability to operate safely, taking into consideration the vessel's type, use, and construction, the weather conditions, and other existing operating conditions.

(3) A violation of subsection (1) or (2) of this section is an infraction punishable as provided under chapter 7.84 RCW except as provided under RCW 79A.60.020 or where the overloading or overpowering is reasonably advisable to effect a rescue or for some similar emergency purpose.

(4) If it appears reasonably certain to any law enforcement officer that a person is operating a vessel clearly loaded or powered beyond its safe operating ability and in the judgment of that officer the operation creates an especially hazardous condition, the officer may direct the operator to take immediate and reasonable steps necessary for the safety of the individuals on board the vessel, including directing the operator to return to shore or a mooring and to remain there until the situation creating the hazard is corrected or ended. Failure to follow the direction of an officer under this subsection is a misdemeanor punishable as provided under RCW 9.92.030. [2000 c 11 § 100; 1993 c 244 § 16. Formerly RCW 88.12.135.]

Intent-1993 c 244: See note following RCW 79A.60.010.

79A.60.190 Operation of personal watercraft—Prohibited activities—Penalties. (1) A person shall not operate a personal watercraft unless each person aboard the personal watercraft is wearing a personal flotation device approved by the commission. Except as provided for in

RCW 79A.60.020, a violation of this subsection is a civil infraction punishable under RCW 7.84.100.

- (2) A person operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch shall attach the lanyard to his or her person, clothing, or personal flotation device as appropriate for the specific vessel. It is unlawful for any person to remove or disable a cutoff switch that was installed by the manufacturer.
- (3) A person shall not operate a personal watercraft during darkness.
- (4) A person under the age of fourteen shall not operate a personal watercraft on the waters of this state.
- (5) A person shall not operate a personal watercraft in a reckless manner, including recklessly weaving through congested vessel traffic, recklessly jumping the wake of another vessel unreasonably or unnecessarily close to the vessel or when visibility around the vessel is obstructed, or recklessly swerving at the last possible moment to avoid collision.
- (6) A person shall not lease, hire, or rent a personal watercraft to a person under the age of sixteen.
- (7) Subsections (1) through (6) of this section shall not apply to a performer engaged in a professional exhibition or a person participating in a regatta, race, marine parade, tournament, or exhibition authorized or otherwise permitted by the appropriate agency having jurisdiction and authority to authorize such events.
- (8) Violations of subsections (2) through (6) of this section constitute a misdemeanor under RCW 9.92.030. [2000 c 11 § 101; 1993 c 244 § 17. Formerly RCW 88.12.145.]

Intent-1993 c 244: See note following RCW 79A.60.010.

79A.60.200 Duty of operator involved in collision, accident, or other casualty-Immunity from liability of persons rendering assistance-Penalties. (1) The operator of a vessel involved in a collision, accident, or other casualty, to the extent the operator can do so without serious danger to the operator's own vessel or persons aboard, shall render all practical and necessary assistance to persons affected by the collision, accident, or casualty to save them from danger caused by the incident. Under no circumstances may the rendering of assistance or other compliance with this section be evidence of the liability of such operator for the collision, accident, or casualty. The operator shall also give all pertinent accident information, as specified by rule by the commission, to the law enforcement agency having jurisdiction: PROVIDED, That this requirement shall not apply to operators of vessels when they are participating in an organized competitive event authorized or otherwise permitted by the appropriate agency having jurisdiction and authority to authorize such events. These duties are in addition to any duties otherwise imposed by law. Except as provided for in RCW 79A.60.020 and subsection (3) of this section, a violation of this subsection is a civil infraction punishable under RCW 7.84.100.

(2) Any person who complies with subsection (1) of this section or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty, without objection of the person assisted, shall not be held liable for any civil damages as a result of the

rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment, or other assistance, where the assisting person acts as any reasonably prudent person would have acted under the same or similar circumstances.

(3) An operator of a vessel is guilty of a class C felony and is punishable pursuant to RCW 9A.20.021 if the operator: (a) Is involved in a collision that results in injury to a person; (b) knew or reasonably should have known that a person was injured in the collision; and (c) leaves the scene of the collision without rendering all practical and necessary assistance to the injured person as required pursuant to subsection (1) of this section, under circumstances in which the operator could have rendered assistance without serious danger to the operator's own vessel or persons aboard. This subsection (3) does not apply to vessels involved in commerce, including but not limited to tugs, barges, cargo vessels, commercial passenger vessels, fishing vessels, and processing vessels. [2000 c 11 § 102; 1996 c 36 § 1; 1993 c 244 § 18; 1984 c 183 § 1; 1983 2nd ex.s. c 3 § 48. Formerly RCW 88.12.155, 88.12.130, and 88.02.080.]

Intent-1993 c 244: See note following RCW 79A.60.010.

79A.60.210 Casualty and accident reports—Confidentiality—Use as evidence. (1) All reports made to the commission pursuant to RCW 79A.60.200 and 79A.05.310 shall be without prejudice to the person who makes the report and shall be for the confidential usage of governmental agencies, except as follows:

(a) Statistical information which shall be made public;

(b) The names and addresses of the operator and owner and the registration number or name of the vessel as documented which was involved in an accident or casualty and the names and addresses of any witnesses which, if reported, shall be disclosed upon written request to any person involved in a reportable accident, or, for a reportable casualty, to any member of a decedent's family or the personal representatives of the family.

(2) A report made to the commission pursuant to RCW 79A.60.200 and 79A.05.310 or copy thereof shall not be used in any trial, civil or criminal, arising out of an accident or casualty, except that solely to prove a compliance or failure to comply with the report requirements of RCW 79A.60.200 and 79A.05.310, a certified statement which indicates that a report has or has not been made to the commission shall be provided upon demand to any court or upon written request to any person who has or claims to have made a report. [1999 c 249 § 1502; 1984 c 183 § 3. Formerly RCW 88.12.165, 88.12.140, and 43.51.402.]

Severability—1999 c 249: See note following RCW 79A.05.010.

79A.60.220 Boating accident reports by local government agencies—Investigation—Report of coroner. Law enforcement authorities, fire departments, or search and rescue units of any city or county government shall provide to the commission a report, prepared by the local government agency regarding any boating accident occurring within their jurisdiction resulting in a death or injury requiring hospitalization. Such report shall be provided to the commission within ten days of the occurrence of the accident.

The results of any investigation of the accident conducted by the city or county governmental agency shall be included in the report provided to the commission. At the earliest opportunity, but in no case more than forty-eight hours after becoming aware of an accident, the agency shall notify the commission of the accident. The commission shall have authority to investigate any boating accident. The results of any investigation conducted by the commission shall be made available to the local government for further processing. This provision does not eliminate the requirement for a boating accident report by the operator required under RCW 79A.60.200.

The report of a county coroner, or any public official assuming the functions of a coroner, concerning the death of any person resulting from a boating accident, shall be submitted to the commission within one week of completion. Information in such report may be, together with information in other such reports, incorporated into the state boating accident report provided for in RCW 79A.05.310(4), and shall be for the confidential usage of governmental agencies as provided in RCW 79A.60.210. [1999 c 249 § 1503; 1987 c 427 § 1. Formerly RCW 88.12.175, 88.12.150, and 43.51.403.]

Severability-1999 c 249: See note following RCW 79A.05.010.

Boating accidents and boating safety services—Study—Report—1987 c 427: "The parks and recreation commission shall conduct a study of boating accidents and boating safety services in Washington including a review of how the local option tax for funding of boating safety enforcement is used. Further the parks and recreation commission shall develop recommendations to address identified problems and report these recommendations to the legislature by January 2, 1988." [1987 c 427 § 4.]

79A.60.230 Vessels adrift—Owner to be notified. Any person taking up any vessel found adrift, and out of the custody of the owner, in waters of this state, shall forthwith notify the owner thereof, if to him or her known, or if upon reasonable inquiry he or she can ascertain the name and residence of the owner, and request such owner to pay all reasonable charges, and take such vessel away. [1993 c 244 § 19; Code 1881 § 3242; 1854 p 386 § 1; RRS § 9891. Formerly RCW 88.12.185, 88.12.160, and 88.20.010.]

Intent-1993 c 244: See note following RCW 79A.60.010.

79A.60.240 Notice—Contents—Service. Such notice as is required by RCW 79A.60.230 shall be given personally, or in writing; if in writing, it shall be served upon the owner, or may be sent by mail to the post office where such owner usually receives his or her letters. Such notice shall inform the party where the vessel was taken up, and where it may be found, and what amount the taker-up or finder demands for his or her charges. [1999 c 249 § 1504; 1993 c 244 § 20; Code 1881 § 3243; 1854 p 386 § 2; RRS § 9892. Formerly RCW 88.12.195, 88.12.170, and 88.20.020.]

Severability—1999 c 249: See note following RCW 79A.05.010. Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.250 Posting of notice. (1) In all cases where the notice required by RCW 79A.60.230 is not given personally, it shall be the duty of the taker-up to post up at the post office nearest the place where such vessel may be taken up, a written notice of the taking up of such vessel. The written notice shall contain a description of the vessel,